

HOLLAND & HART LLP  
David K. Broadbent, #0442  
Matthew T. Wirthlin, #8291  
Romaine C. Marshall, #9654  
J. Andrew Sjoblom, #10860  
Doyle S. Byers, #11440  
Cory A. Talbot, #11477  
222 S. Main Street, Suite 2200  
Salt Lake City, UT 84101  
Telephone: 801-799-5960  
Fax: 801-713-6259

*Attorneys for John A. Beckstead as Receiver  
for Management Solutions, Inc., Wendell  
A. Jacobson and Allen R. Jacobson*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

---

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

MANAGEMENT SOLUTIONS, INC., a  
Texas Corporation; WENDELL A.  
JACOBSON; ALLEN R. JACOBSON,

Defendants.

**MOTION FOR FINDINGS REGARDING  
THE EXISTENCE AND START DATE OF  
A PONZI SCHEME AND FOR  
APPROVAL TO POOL CLAIMS AND  
ASSETS**

Civil Action No. 2:11-cv-01165

Judge Bruce S. Jenkins

---

John A. Beckstead, as receiver (the “Receiver”) for Defendants Management Solutions, Inc., Wendell A. Jacobson, Allen R. Jacobson, and related entities and persons (collectively, “MSI”), respectfully submits this Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets (the “Motion”).

The Receiver seeks a finding that a Ponzi scheme existed and establishing April 1, 1996 as the start date thereof for purposes of the administration of the receivership. This start date will be used for calculating claims filed by investors and to determine the amounts owing on certain claims to be brought by the Receiver.

The Receiver also seeks an order approving the pooling of all assets of the receivership into a common pool from which expenses will be paid and distributions made on a pro rata basis to all claimants according to priorities approved by the Court.

This Motion is supported by the accompanying Memorandum in Support, as well as the Report to Receiver of Management Solutions, Inc. "Commingling" of Funds filed on November 9, 2012 (*see* Doc. Nos. 661-677).

DATED this 13th day of November, 2012.

HOLLAND & HART LLP

/s/ Doyle S. Byers

David K. Broadbent

Matthew T. Wirthlin

Romaine C. Marshall

J. Andrew Sjoblom

Doyle S. Byers

Cory A. Talbot

*Attorneys for John A. Beckstead as Receiver*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 13th day of November, 2012, I caused a true and correct copy of the foregoing to be served in the following manner upon the addressee(s) listed below:

<input type="checkbox"/>	U.S. Mail, postage prepaid	Daniel J. Wadley
<input type="checkbox"/>	Hand Delivery	Thomas M. Melton
<input type="checkbox"/>	Facsimile	Alison J. Okinaka
<input type="checkbox"/>	Overnight courier	Paul N. Feindt
<input checked="" type="checkbox"/>	E-mail and/or CM/ECF	SECURITIES & EXCHANGE COMMISSION

15 W. South Temple Street, Suite 1800  
Salt Lake City, UT 84101  
Telephone: (801) 524-5796  
Facsimile: (801) 524-5262

[wadleyd@sec.gov](mailto:wadleyd@sec.gov)

[meltont@sec.gov](mailto:meltont@sec.gov)

[okinakaa@sec.gov](mailto:okinakaa@sec.gov)

[feindtp@sec.gov](mailto:feindtp@sec.gov)

*Attorneys for Plaintiff,  
Securities and Exchange Commission*

<input type="checkbox"/>	U.S. Mail, postage prepaid
<input type="checkbox"/>	Hand Delivery
<input type="checkbox"/>	Facsimile
<input type="checkbox"/>	Overnight courier
<input checked="" type="checkbox"/>	E-mail and/or CM/ECF

Stephen E. Quesenberry  
Christopher R. Infanger  
James B. Quesenberry  
HILL JOHNSON & SCHMUTZ LC  
4844 North 300 West, Suite 300  
Provo, UT 84604  
Telephone: (801) 375-6600  
Facsimile: (801) 375-3865

[squesenberry@hjslaw.com](mailto:squesenberry@hjslaw.com)

[cinfanger@hjslaw.com](mailto:cinfanger@hjslaw.com)

[jbquesenberry@hjslaw.com](mailto:jbquesenberry@hjslaw.com)

*Attorneys for Defendants,  
Wendell A. Jacobson and Allen R. Jacobson*

<input checked="" type="checkbox"/>	U.S. Mail, postage prepaid
<input type="checkbox"/>	Hand Delivery
<input type="checkbox"/>	Facsimile
<input type="checkbox"/>	Overnight courier
<input type="checkbox"/>	E-mail and/or CM/ECF

Greg B. Bailey  
P. O. Box 298  
Fountain Green, UT 84632  
Telephone: (435) 262-7683  
*Pro Se*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Richard D. Burbidge  
Jefferson W. Gross  
Ian Hiatt  
BURBIDGE MITCHELL & GROSS  
215 S. State Street, Suite 920  
Salt Lake City, UT 84111  
Telephone: (801) 355-6677  
Facsimile: (801) 355-2341  
[rburbidge@bmgtrial.com](mailto:rburbidge@bmgtrial.com)  
[jwgross@bmgtrial.com](mailto:jwgross@bmgtrial.com)  
[ihatt@bmgtrial.com](mailto:ihatt@bmgtrial.com)  
*Attorneys for Intervenor Defendant,  
CRVII Escena Lend, LLC*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Gregory N. Hoole  
HOOLE & KING, L.C.  
4276 Highland Drive  
Salt Lake City, UT 84124  
Telephone: (801) 272-7556  
Facsimile: (801) 272-7557  
[gregh@hooleking.com](mailto:gregh@hooleking.com)  
*Attorneys for MSI Investor Group*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Kim R. Wilson  
Tammy B. Georgelas  
SNOW CHRISTENSEN & MARTINEAU  
10 Exchange Place, 11th Floor  
P. O. Box 45000  
Salt Lake City, UT 84145-5000  
Telephone: (801) 521-9000  
Facsimile: (801) 363-0400  
[krw@scmlaw.com](mailto:krw@scmlaw.com)  
[tbg@scmlaw.com](mailto:tbg@scmlaw.com)  
*Attorneys for Intervenor Defendant,  
Bank Midwest N.A.*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Sam M. Stricklin  
Brian C. Mitchell  
BRACEWELL & GIULIANI, LLP  
1445 Ross Avenue, Suite 3800  
Dallas, TX 75202  
Telephone: (214) 758-1053  
Facsimile: (214) 468-8353  
[Sam.stricklin@bgllp.com](mailto:Sam.stricklin@bgllp.com)  
[brian.mitchell@bgllp.com](mailto:brian.mitchell@bgllp.com)  
*Attorneys for Intervening Party Bank  
Midwest, N.A., as successor-by-merger with  
Hillcrest Bank, N.A.*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Adelaide Maudsley  
Brandon C. Pond  
CHAPMAN AND CUTLER, LLP  
201 S. Main Street, Suite 2000  
Salt Lake City, UT 84111  
Telephone: (801) 533-0066  
[maudsley@chapman.com](mailto:maudsley@chapman.com)  
[bcpond@chapman.com](mailto:bcpond@chapman.com)  
*Attorneys for Mutual of Omaha Bank*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

John Kincade  
Deanna E. Caldwell  
James Richard White  
WINSTEAD PC  
500 Winstead Building  
2728 N. Harwood Street  
Dallas, TX 75270  
Telephone: (214) 745-5400  
Facsimile: (214) 745-5390  
[jkincade@winstead.com](mailto:jkincade@winstead.com)  
[dcaldwell@winstead.com](mailto:dcaldwell@winstead.com)  
[jrwhite@winstead.com](mailto:jrwhite@winstead.com)  
*Attorneys for Mutual of Omaha Bank*

<input type="checkbox"/>	U.S. Mail, postage prepaid	Brandon C. Pond
<input type="checkbox"/>	Hand Delivery	CHAPMAN & CUTLER
<input type="checkbox"/>	Facsimile	One Utah Center
<input type="checkbox"/>	Overnight courier	201 S Main Street, Suite 2000
<input checked="" type="checkbox"/>	E-mail and/or CM/ECF	Salt Lake City, UT 84111
		(801) 320-6746
		<a href="mailto:bcpond@chapman.com">bcpond@chapman.com</a>
		<i>Attorneys for Mutual of Omaha Bank</i>
<input type="checkbox"/>	U.S. Mail, postage prepaid	D. Zachary Wiseman
<input type="checkbox"/>	Hand Delivery	RAY QUINNEY & NEBEKER, P.C.
<input type="checkbox"/>	Facsimile	36 S. State Street, Suite 1400
<input type="checkbox"/>	Overnight courier	Salt Lake City, UT 84111
<input checked="" type="checkbox"/>	E-mail and/or CM/ECF	<a href="mailto:zwiseman@rqn.com">zwiseman@rqn.com</a>
		<i>Attorneys for Movant Platinum Protection LLC</i>
<input type="checkbox"/>	U.S. Mail, postage prepaid	George W. Pratt
<input type="checkbox"/>	Hand Delivery	Jessica P. Wilde
<input type="checkbox"/>	Facsimile	JONES WALDO HOLBROOK & McDONOUGH
<input type="checkbox"/>	Overnight courier	170 S. Main Street, Suite 1500
<input checked="" type="checkbox"/>	E-mail and/or CM/ECF	Salt Lake City, UT 84101
		Telephone: (801) 521-3200
		<a href="mailto:gpratt@joneswaldo.com">gpratt@joneswaldo.com</a>
		<a href="mailto:jwilde@joneswaldo.com">jwilde@joneswaldo.com</a>
		<i>Attorneys for Barlow Corporation</i>
<input type="checkbox"/>	U.S. Mail, postage prepaid	Douglas M. Durbano
<input type="checkbox"/>	Hand Delivery	Jacob D. Driggs
<input type="checkbox"/>	Facsimile	DURBANO LAW FIRM, P.C.
<input type="checkbox"/>	Overnight courier	476 West Heritage Park Blvd., Suite 200
<input checked="" type="checkbox"/>	E-mail and/or CM/ECF	Layton, Utah 84041
		Telephone: (801) 776-4111
		<a href="mailto:office@durbanolawfirm.com">office@durbanolawfirm.com</a>
		<i>Attorneys for Barlow Corporation</i>

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Amy F. Sorenson  
Jared C. Fields  
SNELL & WILMER L.L.P.  
15 West South Temple, Suite 1200  
Salt Lake City, Utah 84101  
Telephone: (801) 257-1900  
[asorenson@swlaw.com](mailto:asorenson@swlaw.com)  
[jfields@swlaw.com](mailto:jfields@swlaw.com)  
*Attorneys for Fannie Mae*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Jason D. Boren  
Matthew L. Moncur  
BALLARD SPAHR LLP  
One Utah Center, Suite 800  
201 South Main Street  
Salt Lake City, Utah 84111-2221  
Telephone: (801) 531-3000  
[borenj@ballardspahr.com](mailto:borenj@ballardspahr.com)  
[moncurm@ballardspahr.com](mailto:moncurm@ballardspahr.com)  
*Attorneys for Freddie Mac*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Edwin J. Tomko  
Jason M. Ross  
CURRAN TOMKO TARSKI LLP  
2001 Bryan Tower, Suite 2000  
Dallas, TX 75201  
(214) 270-1405  
[etomko@cttlegal.com](mailto:etomko@cttlegal.com)  
[jross@cttlegal.com](mailto:jross@cttlegal.com)  
*Attorneys for Intervenors Brian Blain,  
Visionary Management, First Branch and  
Encinito Properties*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

John H. Bogart  
TELOS VENTURES GROUP  
299 S Main Street, Suite 1300  
Salt Lake City, UT 84111  
(801) 535-4304  
[jbogart@telosvg.com](mailto:jbogart@telosvg.com)  
*Attorneys for Intervenors Brian Blain,  
Visionary Management, First Branch and  
Encinito Properties*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Kenneth L. Cannon, II  
Steven J. McCardell  
DURHAM JONES & PINEGAR  
111 E Broadway, Suite 900  
Salt Lake City, UT 84111  
(801) 415-3000  
[kcannon@djplaw.com](mailto:kcannon@djplaw.com)  
[smccardell@djplaw.com](mailto:smccardell@djplaw.com)  
*Attorneys for Intervenor Key Bank*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Jeremy M. Hoffman  
YOUNG HOFFMAN LLC  
170 S Main Street, Suite 1125  
Salt Lake City, UT 84101-1605  
(801) 359-1900  
[jmhoffman@yahlaw.com](mailto:jmhoffman@yahlaw.com)  
*Attorneys for Intervenor Arvest Bank*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Philip D. Hixon  
R. Charles Wilkin  
Robert S. Glass  
Robert P. Skeith  
GLASS WILKIN PC  
1515 S Utica, Suite 250  
Tulsa, OK 74014  
(918) 582-7100  
[phixon@glasswilkin.com](mailto:phixon@glasswilkin.com)  
[cwilkin@glasswilkin.com](mailto:cwilkin@glasswilkin.com)  
[rglass@glasswilkin.com](mailto:rglass@glasswilkin.com)  
[rskeith@glasswilkin.com](mailto:rskeith@glasswilkin.com)  
*Attorneys for Intervenor Arvest Bank*



- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Matthew N. Evans  
RAY QUINNEY & NEBEKER (SLC)  
36 S. State Street, Suite 1400  
PO BOX 45385  
Salt Lake City, UT 84145-0385  
(801) 521-1500  
[mevans@rqn.com](mailto:mevans@rqn.com)  
*Attorneys for Nevada State Bank*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

DAVID B. BARLOW  
JEFFREY E. NELSON  
185 South State Street, Suite 300  
Salt Lake City, Utah 84111  
Telephone: (801) 524-5682  
[jeff.nelson@usdoj.gov](mailto:jeff.nelson@usdoj.gov)  
*Attorneys for Intervenor Department of  
Housing and Urban Development*

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight courier
- ☒ E-mail and/or CM/ECF

Matthew C. Barneck  
Wayne Z. Bennett  
Richards Brandt Miller Nelson  
Wells Fargo Center, 15th Floor  
299 South Main Street  
P.O. Box 2465  
Salt Lake City, UT 84110-2465  
[matthew-barneck@rbmn.com](mailto:matthew-barneck@rbmn.com)  
[wayne-bennett@rbmn.com](mailto:wayne-bennett@rbmn.com)  
*Attorneys for Naples Lending LLC*

/s/ Doyle S. Byers